
THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

CLEARPLAY, INC.,
Plaintiff,
v.
DISH NETWORK, LLC, and ECHOSTAR
TECHNOLOGIES, LLC,
Defendants.

**ORDER FOR SUPPLEMENTAL
BRIEFING ON MOTION FOR
JUDGMENT AS A MATTER OF LAW**

Case No. 2:14-cv-00191-DN-CMR
District Judge David Nuffer

Further evaluation of Dish's Motion for Judgment as a Matter of Law Under Rule 50(a)¹

("Motion") is now possible with the aid of trial transcripts. To aid the court,

IT IS HEREBY ORDERED that the parties must file, on or before Thursday March 16, 2023:

1. Supplemental memoranda on the Motion drawn from the trial transcripts and exhibits presented during ClearPlay's case-in-chief. The parties may not raise new arguments that were not made in their original briefing,² supplemental briefing,³ or oral argument⁴ on the Motion.

¹ Docket no. 862, filed Mar. 3, 2023.

² *Id.*; ClearPlay's Opposition to Defendants' Motion for Judgment as a Matter of Law Under Rule 50(a), docket no. 863, filed Mar. 5, 2023.

³ Supplemental Briefing in Support of Defendants' Judgment as a Matter of Law Under Rule 50(a), docket no. 883, filed Mar. 7, 2023; ClearPlay's Supplemental Briefing Regarding Disabling, docket no. 884, filed Mar. 7, 2023, docket no. 886, filed under seal Mar. 7, 2023.

⁴ Minute Entry for Proceedings Held Before Judge David Nuffer, docket no. 901, filed Mar. 8, 2023. Oral argument on the Motion is at pages 1776-1805 of the trial transcript.

2. Appendices to the supplemental memoranda including concise excerpts from the trial transcript of ClearPlay's case-in-chief presentation of any evidence (with reference to exhibit numbers or demonstrative exhibits used) that support or contradict:

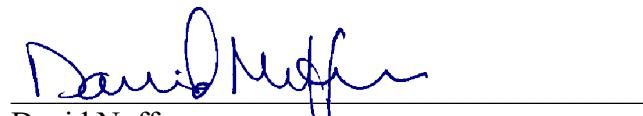
- i. that Dish's accused products literally infringe the element of claim 27 of the '970 Patent of "providing for disabling of one or more of the navigation objects such that the specific filtering action specified by the disabled navigation object is ignored[.]" This element means "providing for some action to be taken to disable a navigation object so that its filtering action is ignored." An action must directly disable a navigation object so that its filtering action is ignored, as opposed to disabling something other than the navigation object that results in the navigation object's filtering action being ignored.
- ii. that Dish's accused products literally infringe the element of claim 12 of the '799 Patent that requires each navigation object of the plurality of navigation objects to define a filtering action. The start, stop, and filter elements that comprise the navigation object must be contained within the same object, file, or data structure (*i.e.*, the navigation object). Any testimony or evidence tending to show a multi-object approach to navigation object should be included in this category.
- iii. that Dish's accused products literally infringe the element of claim 12 of the '799 Patent that requires a configuration identifier to be contained within each navigation object of the plurality of navigation objects. Any testimony or evidence tending to show a multi-object approach to navigation object should be included in this category.
- iv. that Dish's accused products infringe claim 12 of the '799 patent under the doctrine of equivalents with specific attention to whether Dr. Feamster offered

particularized testimony of the function, means, result test, or the insubstantial difference test regarding each navigation object of the plurality of navigation objects sharing a filtering action.

v. that Dish's accused products infringe claim 12 of the '799 patent under the doctrine of equivalents with specific attention to whether Dr. Feamster offered particularized testimony of the function, means, result test, or the insubstantial difference test regarding each navigation object of the plurality of navigation objects sharing a configuration identifier.

Signed March 11, 2023.

BY THE COURT



David Nuffer
United States District Judge